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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/492,315	01/27/2000	Daniel M. Brown	2119-121P	9732

7590

03/29/2004

Patent Administrator
Mems Optical, Inc.
205 Import Circle, Suite 2
Huntsville, AL 35806

EXAMINER

PARKER, KENNETH

ART UNIT	PAPER NUMBER
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2871

DATE MAILED: 03/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/492,315

Applicant(s)

BROWN ET AL.

Examiner

Kenneth A Parker

Art Unit

2871

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/4/2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-8 is/are allowed.
- 6) ☒ Claim(s) 9-15, 17-21, 23 and 24 is/are rejected.
- 7) ☒ Claim(s) 16 and 22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

Detailed Action

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 102

2. Claim 9-15, 17, 19-21, and 23 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Nobutoshi et al 08-322067.

Nobutoshi discloses a stereoscopic display with each of three color sub pixels 1a –1c being focused by a lens array 3 which sends light to another pixel array 2 which sends light to the viewing positions. The arrays are both vertical column lenses. Therefore, these claims are anticipated by this reference.

Claim Rejections - 35 USC § 103

3. Claims 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nobutoshi et al 08-322067.

The product by process limitation (the retrofitting) is not seen as defining a materially different product, and therefore do not patentably distinguish over the reference.

The forming of a plurality of lenses on two sides of a single element was well known for reducing the cost and guaranteeing alignment. Therefore it would have been

obvious to one of ordinary skill, in the device of Nobutoshi et al, to employ the lenses as a single element for low cost and guaranteed alignment.

Allowable Subject Matter

1-8 are allowed.

Claims 16 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed have been fully considered but they are not persuasive. Applicant asserts that the rejected claims are allowable for similar reason as claim 1, which is impossible as the claims lack the feature applicant added to claim 1 to make it allowable. Applicant has failed to even allege that any particular features is missing. Regarding applicant's comments about an IDS without all of the references initialed, no IDS with un-initialed references has been found in the application. If an IDS was submitted and no initialed copy returned, applicant should provide a new copy, the associated references with a mail receipt card if applicable.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth Parker whose telephone number is (703) 305-6202. The fax phone number for this Group is (703) 308-7722. Any inquiry of a general nature or relating to the status of this application or preceding should be directed to the Group receptionist whose telephone number is (703) 308-0956.

3/22/04


KENNETH ALLEN PARKER
PRIMARY PATENT EXAMINER
GAU 2871